

Malaise, Gordon

From: Austin, David
Sent: Wednesday, February 20, 2002 2:05 PM
To: Malaise, Gordon
Subject: adoption and safe families bill

Gordon:

Can you please do a re-draft of LRB 4892? This version should include the Assembly Amendment to AB 809 (LRBa1288/3).

The intent is to have the Senate version be identical to the amended assembly version.

Thanks,

David Austin
Senator Robson's office
6-2253



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBa1288/3
GMM:kmg:ch

ASSEMBLY AMENDMENT,
TO 2001 ASSEMBLY BILL 809

1 At the locations indicated, amend the bill as follows:

2 ~~1.~~ Page 9, line 11: delete lines 11 to 13 and substitute "be granted a rehearing
3 upon request for good cause shown".

4 ~~2.~~ Page 9, line 20: delete lines 20 to 25.

5 ~~3.~~ Page 10, line 1: delete lines 1 to 5.

6 ~~4.~~ Page 10, line 9: delete "and, unless" and substitute ". Unless".

7 ~~5.~~ Page 10, line 11: after "applies," insert "the order shall in addition include".

8 ~~6.~~ Page 10, line 14: after "and" insert "a finding as to whether the person who
9 took the child into custody and the intake worker have made reasonable efforts".

10 ~~7.~~ Page 10, line 16: delete "those findings," and substitute "a finding as to
11 whether those reasonable efforts were made to prevent the removal of the child from

1 the home, a finding as to whether those reasonable efforts were made to make it
2 possible for the child to return safely home and”.

3 ~~8.~~ Page 10, line 20: delete “those findings” and substitute “a finding as to
4 whether those reasonable efforts were made to prevent the removal of the child from
5 the home”.

6 ~~9.~~ Page 14, line 18: after “court” insert “, while assuring the safety of the
7 child,”.

8 ~~10.~~ Page 34, line 4: after “placement or” insert “the first 6 months of any period
9 during which”.

10 ~~11.~~ Page 34, line 5: delete “of 6 months or less”.

11 ~~12.~~ Page 41, line 11: delete “plan,” and substitute “plan.”.

12 ~~13.~~ Page 41, line 12: delete “in the order of preference specified in subds. 1.
13 to 5.”.

14 ~~14.~~ Page 41, line 17: delete “the goal or”.

15 ~~15.~~ Page 41, line 18: delete that line and substitute “one or more of the
16 following goals to be the goal or goals of a child’s permanency plan.”.

17 ~~16.~~ Page 44, line 15: after “placement or” insert “the first 6 months of any
18 period during which”.

19 ~~17.~~ Page 44, line 16: delete “of 6 months or less”.

20 ~~18.~~ Page 45, line 21: after “living,” insert “the child’s counsel, the child’s
21 guardian ad litem, and”.

22 ~~19.~~ Page 47, line 18: after “48.365 (1)” insert “or 938.365 (1)”.

1 ~~20.~~ Page 47, line 19: after "placement or" insert "the first 6 months of any
2 period during which".

3 ~~21.~~ Page 47, line 20: delete "of 6 months or less".

4 22. Page 53, line 20: delete lines 20 to 22 and substitute "shall be granted a
5 rehearing upon request for good cause shown".

6 ~~23.~~ Page 54, line 4: delete lines 4 to 13.

7 ~~24.~~ Page 54, line 20: delete lines 20 to 25.

8 ~~25.~~ Page 55, line 1: delete lines 1 to 5.

9 ~~26.~~ Page 55, line 9: delete "and, unless" and substitute ". Unless".

10 ~~27.~~ Page 55, line 11: after "applies," insert "the order shall in addition
11 include".

12 ~~28.~~ Page 55, line 14: after "concerns, and" insert "a finding as to whether the
13 person who took the juvenile into custody and the intake worker have made
14 reasonable efforts".

15 ~~29.~~ Page 55, line 16: delete "those findings," and substitute "a finding as to
16 whether those reasonable efforts were made to prevent the removal of the juvenile
17 from the home, a finding as to whether those reasonable efforts were made to make
18 it possible for the juvenile to return safely home and".

19 ~~30.~~ Page 55, line 19: delete "those findings" and substitute "a finding as to
20 whether those reasonable efforts were made to prevent the removal of the juvenile
21 from the home".

22 ~~31.~~ Page 59, line 4: after that line insert:

23 "SECTION 107m. 938.315 (3) of the statutes is amended to read:

1 938.315 (3) Failure to comply with any time limit specified in this chapter does
2 not deprive the court of personal or subject matter jurisdiction or of competency to
3 exercise that jurisdiction. Failure to object to a period of delay or a continuance
4 waives the time limit that is the subject of the period of delay or continuance. If a
5 party does not comply with a time limit specified in this chapter, the court, while
6 assuring the safety of the juvenile, may grant a continuance under sub. (2), dismiss
7 the petition with or without prejudice, release the juvenile from secure or nonsecure
8 custody or from the terms of a custody order, or grant any other relief that the court
9 considers appropriate.”.

10 ~~32.~~ Page 63, line 14: after “(d)” insert “or (4d)”.

11 ~~33.~~ Page 83, line 6: after “~~earlier~~” insert “except that in the case of a juvenile
12 who on removal from his or her home was first placed in a secure detention facility,
13 a secured correctional facility, a secured child caring institution, or a secured group
14 home for 60 days or more and then moved to a nonsecured out-of-home placement,
15 the juvenile is considered to have been placed outside of his or her home on the date
16 on which the juvenile was moved to the nonsecured out-of-home placement”.

17 ~~34.~~ Page 83, line 21: after “placement or” insert “the first 6 months of any
18 period during which”.

19 ~~35.~~ Page 83, line 22: delete “of 6 months or less”.

20 ~~36.~~ Page 91, line 6: delete that line and substitute “plan. If a goal of the
21 permanency”.

22 ~~37.~~ Page 91, line 11: delete “determine the” and substitute “determine”.

38. Page 91, line 12: delete that line and substitute "one or more of the following goals to be the goal or goals of a juvenile's permanency plan:".

39. Page 94, line 10: delete that line and substitute "placement or the first 6 months of any period during which the juvenile was returned to his or her home for a trial home visit.".

~~40.~~ Page 94, line 11: delete "months or less.".

41. Page 95, line 14: after "living;" insert "the juvenile's counsel and the juvenile's guardian ad litem;".

~~42.~~ Page 99, line 12: delete "and (e)".

43. Page 99, line 13: delete “and (d), and (3) (am) and (e)” and substitute “, and (3) (am)”.

~~44.~~ Page 100, line 8: after “938.315 (2m)” insert “and (3)”.

(END)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4892/3

GMM:kg:rs

For 2/22

2001 BILL

Agenda

1 AN ACT *to renumber* 48.32 (1); *to renumber and amend* 48.355 (2d) (c), 48.357
2 (1), 48.357 (2m), 48.357 (2v), 48.365 (2m) (a), 48.38 (4) (a), 48.38 (5) (c) 6. am.,
3 938.355 (2d) (c), 938.357 (1), 938.357 (2m), 938.357 (2v), 938.365 (2m) (a),
4 938.38 (4) (a) and 938.38 (5) (c) 6. am.; *to amend* 48.21 (1) (a), 48.21 (3) (am),
5 48.21 (3) (e), 48.255 (2), 48.27 (3) (a) 1m., 48.33 (4) (intro.), 48.355 (2) (b) 6.,
6 48.355 (2b), 48.355 (2c) (b), 48.355 (2d) (b) (intro.), 48.355 (2d) (b) 1., 48.355 (2d)
7 (b) 2., 48.355 (2d) (b) 3., 48.355 (2d) (b) 4., 48.355 (2d) (b) 5., 48.355 (4), 48.357
8 (2), 48.357 (2r), 48.357 (6), 48.365 (1), 48.365 (2g) (b) 2., 48.365 (2g) (b) 3., 48.365
9 (2m) (ag), 48.365 (5), 48.38 (2) (intro.), 48.38 (2) (c), 48.38 (2) (f), 48.38 (3), 48.38
10 (4) (intro.), 48.38 (4) (bm), 48.38 (4) (e), 48.38 (4) (f) (intro.), 48.38 (4) (fm), 48.38
11 (5) (a), 48.38 (5) (b), 48.38 (5) (c) 6. (intro.), 48.38 (5) (c) 6. d., 48.38 (5) (c) 7.,
12 48.417 (1) (a), 48.417 (1) (b), 48.417 (1) (c), 48.417 (1) (d), 48.417 (2) (a), 48.417
13 (2) (b), 48.42 (2g) (am), 48.427 (1m), 48.63 (1), 48.63 (4), 48.685 (5) (bm) 4., 48.78
14 (2) (a), 48.977 (2) (f), 938.21 (1) (a), 938.21 (2) (am), 938.21 (2) (d), 938.21 (3)

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(am), 938.21 (3) (e), 938.255 (2), 938.27 (3) (a) 1m., 938.33 (4) (intro.), 938.355 (1), 938.355 (2) (b) 6., 938.355 (2b), 938.355 (2c) (b), 938.355 (2d) (b) (intro.), 938.355 (2d) (b) 1., 938.355 (2d) (b) 2., 938.355 (2d) (b) 3., 938.355 (2d) (b) 4., 938.355 (4) (a), 938.355 (4) (b), 938.355 (6) (a), 938.357 (2), 938.357 (2r), 938.357 (3), 938.357 (4) (b) 2., 938.357 (4) (c) 1., 938.357 (4) (c) 2., 938.357 (4) (d), 938.357 (5) (a), 938.357 (6), 938.365 (1), 938.365 (2g) (b) 2., 938.365 (2g) (b) 3., 938.365 (2m) (ag), 938.365 (5), 938.38 (2) (intro.), 938.38 (2) (c), 938.38 (2) (f), 938.38 (3) (intro.), 938.38 (4) (intro.), 938.38 (4) (bm), 938.38 (4) (e), 938.38 (4) (f) (intro.), 938.38 (4) (fm), 938.38 (5) (a), 938.38 (5) (b), 938.38 (5) (c) 6. (intro.), 938.38 (5) (c) 6. d., 938.38 (5) (c) 7. and 938.78 (2) (a); **to repeal and recreate** 48.21 (5) (b) 1. and 938.21 (5) (b) 1.; and **to create** 48.21 (5) (b) 3., 48.21 (5) (c), 48.21 (5) (d), 48.255 (1) (f), 48.255 (1m) (f), 48.315 (2m), 48.32 (1) (b), 48.32 (1) (c), 48.33 (4) (c), 48.335 (3g), 48.355 (2) (b) 6r., 48.355 (2d) (bm), 48.355 (2d) (c) 2. and 3., 48.357 (1) (b) 3., 48.357 (1) (c), 48.357 (2m) (c), 48.357 (2v) (a) (intro.), 48.357 (2v) (a) 1., 48.357 (2v) (a) 3., 48.357 (2v) (b), 48.357 (2v) (c), 48.365 (2m) (a) 2., 48.365 (2m) (a) 3., 48.365 (2m) (ad), 48.38 (4) (ag), 48.38 (4) (am), 48.38 (4) (dg), 48.38 (4) (dm), 48.38 (4) (dr), 48.38 (4) (fg), 48.38 (4) (h), 48.38 (5) (c) 6. cg., 48.38 (5m), 48.417 (2) (d), 938.21 (5) (b) 3., 938.21 (5) (c), 938.21 (5) (d), 938.255 (1) (f), 938.315 (2m), 938.32 (1) (c), 938.32 (1) (d), 938.33 (4) (c), 938.335 (3g), 938.355 (2) (b) 6r., 938.355 (2d) (bm), 938.355 (2d) (c) 2. and 3., 938.355 (6m) (cm), 938.357 (1) (b) 3., 938.357 (1) (c), 938.357 (2m) (c), 938.357 (2v) (a) (intro.), 938.357 (2v) (a) 1., 938.357 (2v) (a) 3., 938.357 (2v) (b), 938.357 (2v) (c), 938.365 (2m) (a) 2., 938.365 (2m) (a) 3., 938.365 (2m) (ad), 938.38 (4) (ag), 938.38 (4) (am), 938.38 (4) (dg), 938.38 (4) (dm), 938.38 (4) (dr), 938.38 (4) (fg), 938.38 (4) (h), 938.38 (5) (c) 6. cg. and 938.38 (5m) of the statutes; **relating to:**

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1 permanency planning for a child placed outside the home, required juvenile
2 court findings when a child is placed outside the home, the expiration date of
3 a juvenile court order placing or continuing the placement of a child outside the
4 home, the requirement that a termination of parental rights petition be filed
5 under certain circumstances, statements by foster parents at juvenile court
6 hearings, and prohibiting a person who has committed an alcohol-related
7 felony within the last 5 years from being licensed to operate a foster home or
8 treatment foster home.

Analysis by the Legislative Reference Bureau

Introduction

Under Title IV-E of the federal Social Security Act (Title IV-E), states that meet certain conditions specified in Title IV-E and the regulations promulgated under Title IV-E are reimbursed for the cost of providing care for children placed in foster homes, treatment foster homes, group homes, child caring institutions, secure detention facilities, or shelter care facilities (out-of-home placements). Recently, the federal department of health and human services promulgated regulations implementing the Adoption and Safe Families Act of 1997 (ASFA), which amended Title IV-E. This bill conforms certain provisions of the Children's Code and the Juvenile Justice Code relating to children placed in out-of-home placements to conform those provisions to ASFA and its implementing regulations.

Permanency planning

Under current law, for each child living in an out-of-home placement, the county department of human services or social services, the licensed child welfare agency, the department of health and family services, in a county having a population of 500,000 or more, or the department of corrections, in the case of a child who has been adjudged delinquent, (collectively "agency") that placed the child or arranged the placement of the child or the agency assigned primary responsibility for providing services to the child must prepare a permanency plan for the child, which is a plan designed to ensure that the child is reunified with his or her family whenever appropriate or that the child quickly attains a placement or home providing long-term stability. A permanency plan must be prepared within 60 days after the date on which the child was first held in physical custody or placed outside the home under an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) and must be prepared if the child is being held under a physical custody order of the juvenile court, is under the guardianship, legal custody, or supervision of an agency, is placed under a

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or, in the case of a child who on removal from the home is first placed in a secure detention facility or secured correctional facility for 60 days or more and then moved to a nonsecured out-of-home placement, within 60 days after the voluntary agreement between the child's parents and an agency, or meets the requirements for aid under the former aid to families with dependent children program. This bill requires a permanency plan to be prepared for a child living in the home of a relative, other than a parent, who meets any of those requirements. The bill also requires a permanency plan to be prepared within 60 days after a child was first removed from his or her home.

child was moved to the nonsecured placement

A permanency plan must describe, among other things, the services that were provided to prevent the placement of the child outside the home, the services that have been and will be provided to make it possible for the child to return safely to the home, and the conditions, if any, upon which the child will be returned to the home. This bill requires the permanency plan to include certain additional information including the goal or goals of the permanency plan, with those goals being return of the child to the home or placement of the child for adoption, with a guardian, in the home of a relative, or in some other alternative permanent placement, ~~in that order of preference~~. If a goal of the permanency plan is any goal other than return of the child to the home, the permanency plan must include the rationale for deciding on that goal and, if the goal of the permanency plan is some other alternative permanent placement, the permanency plan must document a compelling reason for not pursuing return of the child to the home or placement of the child for adoption, with a guardian, or with a relative.

The bill also requires a permanency plan to include a description of the programs and services that are or will be provided to assist a child 15 years of age or over in preparing for the transition from out-of-home care to independent living. In addition, under the bill, if as a result of the child's placement the child has been or will be transferred from his or her school, the permanency plan must include documentation that the placement would be in the child's best interests or that a placement that would maintain the child in his or her school is unavailable or inappropriate. Finally, the bill requires the permanency plan to include the name, address, and telephone number of the child's parent, guardian, and legal custodian, the date on which the child was removed from his or her home and the date on which the child was placed in out-of-home care, and certain educational and medical information relating to the child.

Under current law, the juvenile court or a panel appointed by the juvenile court must review a child's permanency plan every six months to determine, among other things, the continuing necessity for and appropriateness of the placement, the progress being made toward eliminating the causes of the child's placement and returning the child to the home or obtaining a permanent placement for the child, and whether reasonable efforts are being made to make it possible for the child to return to his or her home. This bill requires the juvenile court or panel, in reviewing a child's permanency plan, to determine whether reasonable efforts are being made to achieve the goal of the child's permanency plan, whether the goal is return of the child to the home or placement of the child for adoption, with a guardian, in the home of a relative, or in some other alternative placement.

The bill also requires the juvenile court to hold a hearing to review a child's permanency plan not later than 12 months after the child is removed from the home

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and every 12 months after that hearing, which hearing may be held instead of or in addition to review required under current law.

Contrary-to-welfare and reasonable-efforts findings

Under current law, a dispositional order of the juvenile court placing a child outside the home must include a finding that continued placement of the child in the home would be contrary to the welfare of the child and a finding as to whether the agency primarily responsible for providing services under a juvenile court order has made reasonable efforts to prevent the removal of the child from the home or, if applicable, a finding as to whether the agency has made reasonable efforts to make it possible for the child to return safely to his or her home. The juvenile court, however, is not required to find that those reasonable efforts have been made with respect to a parent if the juvenile court finds that the parent has committed certain crimes of homicide against a child of the parent; has committed battery, sexual assault, or physical or sexual abuse resulting in great bodily harm or substantial bodily harm to the child or to another child of the parent; has had his or her parental rights terminated with respect to another child; or has subjected the child to aggravated circumstances, which are defined as including criminal abandonment, torture, chronic abuse, and sexual abuse. If the juvenile court finds that any of those circumstances applies to a parent, the juvenile court must hold a hearing within 30 days after the date of that finding to determine the permanency plan for the child.

This bill requires a dispositional order that places a child outside the home to include a finding that the agency has made reasonable efforts to achieve the goal of the child's permanency plan, unless return of the child to the home is the goal of the permanency plan and a circumstance applies to a parent under which reasonable efforts to return the child to the home are not required. If the juvenile court finds that such a circumstance applies to a parent, the dispositional order must include a determination that the agency is not required to make those reasonable efforts with respect to the parent.

In addition, the bill requires the juvenile court to make the same contrary-to-welfare and reasonable-efforts findings that the juvenile court is required to make in a dispositional order placing a child outside the home in a temporary physical custody order holding a child outside the home, a change in placement order changing the placement of a child from an in-home placement to an out-of-home placement, and a consent decree maintaining a child placed outside the home under a voluntary agreement or other living arrangement in that placement or other living arrangement. If the juvenile court finds in the custody order, change in placement order, or consent decree that a circumstance applies to a parent under which reasonable efforts to return the child to the home are not required, the custody order, change in placement order, or consent decree must include a determination that the agency is not required to make those reasonable efforts with respect to the parent and the juvenile court must hold a hearing within 30 days after the date of the finding to determine the permanency plan for the child.

Finally, the bill requires the juvenile court to make the contrary-to-welfare and reasonable-efforts findings on a case-by-case basis based on circumstances specific to the child and to document or reference the specific information on which

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those findings are based in the custody order, dispositional order, change in placement order, or consent decree and also in an order extending the dispositional order of a child placed outside the home, an order appointing a relative as the guardian of a child in need of protection or services, and a sanction order placing a child in a place of nonsecure custody. The bill further provides that such an order or consent decree that merely references the statutes without documenting or referencing that specific information in the order or consent decree or an amended order or consent decree that retroactively corrects an earlier order or consent decree that does not comply with those requirements is not sufficient to comply with those requirements.

Termination of orders

Under current law, dispositional orders and extension orders of the juvenile court terminate at the end of one year, unless the judge specifies a shorter period of time, except that the judge may make a dispositional order placing a juvenile who has been adjudged delinquent in a Type 2 child caring institution or a secured correctional facility apply for up to two years or until the juvenile's 18th birthday, whichever is earlier, and the judge must make a dispositional order placing a juvenile who has committed a Class B felony in the serious juvenile offender program (SJOP) apply for five years and must make a dispositional order placing a juvenile who has committed a Class A felony in the SJOP apply until the juvenile reaches 25 years of age. Under current law, a change in placement order may not extend the expiration date of the original dispositional order.

Under this bill, a dispositional order, extension order, or change in placement order that places or continues the placement of a child in an out-of-home placement terminates when the child reaches 18 years of age, at the end of one year after its entry, or, if the child is a full-time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching 19 years of age, when the child reaches 19 years of age, whichever is later, unless the judge specifies a shorter period of time or the judge terminates the order sooner. The bill does not affect the length of a dispositional order or extension order that places or continues the placement of a child in an in-home placement or a dispositional order placing a juvenile in a Type 2 child caring institution, a secured correctional facility, or the SJOP. The bill also requires, in the case of a change in placement from an out-of-home placement to an in-home placement of a child who is subject to an original order the expiration date of which is more than one year after the date of the change in placement order, the juvenile court to shorten the expiration date of the original order to the date that is one year after the date of the change in placement order or to an earlier date as specified by the court.

Time limits

Under current law, certain actions in a proceeding under the Children's Code or the Juvenile Justice Code must take place within certain time limits. If a time limit under the Children's Code is not met, the juvenile court loses competency to exercise its jurisdiction and, therefore, must dismiss the proceeding. Under the Juvenile Justice Code, however, failure to meet a time limit does not deprive the juvenile court of competency to exercise its jurisdiction. Instead, the juvenile court

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, while assuring the safety of the child,

may grant a continuance for good cause shown, dismiss the petition with or without prejudice, release the child from custody, or grant any other relief that the juvenile court considers appropriate. Certain time periods, such as a period of delay resulting from a continuance or an extension granted by the juvenile court, however, are excluded in computing the time requirements under those codes.

This bill prohibits the juvenile court from granting a continuance or an extension of a time limit specified in the Children's Code or the Juvenile Justice Code and from excluding a period of delay in computing a time requirement under those codes if the continuance, extension, or exclusion would result in the juvenile court making an initial finding that reasonable efforts have been made to prevent the removal of a child from his or her home, or an initial finding that those efforts were not required to be made because a circumstance under which those efforts are not required applies, more than 60 days after the date on which the child was removed from the home. The bill also prohibits such a continuance, extension, or exclusion if the continuance, extension, or exclusion would result in the juvenile court making an initial finding that the agency primarily responsible for providing services to the child has made reasonable efforts to achieve the goals of the child's permanency plan more than 12 months after the date on which the child was removed from the home or making any subsequent findings as to those reasonable efforts more than 12 months after the date of a previous finding as to those reasonable efforts. In addition, the bill provides that a failure to meet one of those time limits under the Children's Code does not deprive the juvenile court of competency to exercise its jurisdiction. Instead, the juvenile court may dismiss the petition with or without prejudice, release the child from custody, or grant any other relief that the juvenile court considers appropriate.

Termination of parental rights filing requirements

Under current law, subject to certain exceptions, if a child has been placed in an out-of-home placement for 15 of the most recent 22 months, if a child was abandoned as an infant, or if a child's parent has committed certain crimes of homicide against another child of the parent or has committed battery, sexual assault, or physical or sexual abuse resulting in great bodily harm or substantial bodily harm to the child or to another child of the parent, an agency or the district attorney, corporation counsel, or other appropriate official designated by the county board to prosecute termination of parental rights (TPR) proceedings must file a TPR petition with respect to the child or, if a TPR petition with respect to the child has already been filed, must join in the petition. A person responsible for filing TPR petitions, however, is not required to file or join in a TPR petition with respect to such a child if the child is being cared for by a relative, if a TPR is not in the best interests of the child, or if the agency primarily responsible for providing services to the child and the family is required to make reasonable efforts to make it possible for the child to return safely home and has not provided the services necessary for that safe return.

This bill, for purposes of determining whether a child has been placed outside the home for 15 of the most recent 22 months, excludes any period during which the child was a runaway from the out-of-home placement or the child was returned to

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the first 6 months of any period during which

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his or her home for a trial home visit ~~of six months or less~~. If the child has been placed outside the home for 15 of the most recent 22 months, as calculated under the bill, the TPR petition must be filed or joined in by the last day of that 15th month. Similarly, if the child was abandoned as an infant, the TPR petition must be filed or joined in within 60 days after a court of competent jurisdiction finds that the child was so abandoned and, if the parent has committed certain crimes of homicide against another child of the parent or has committed battery, sexual assault, or physical or sexual abuse resulting in great bodily harm or substantial bodily harm to the child or to another child of the parent, the TPR petition must be filed or joined in within 60 days after the juvenile court determines, based on a finding that the parent has committed such a serious felony, that reasonable efforts to make it possible for the child to return safely home are not required. The bill provides, however, that the filing or joining of a TPR petition is not required if grounds for an involuntary TPR do not exist.

Foster parent debarment

Under current law, a person who has committed a crime against children that is a felony, felony spousal abuse, or certain felonies involving violence or who has committed, within the past five years, a felony battery or a drug-related felony may not be licensed to operate a foster home or treatment foster home, including a foster home or treatment foster home that is a placement for adoption of a child for whom adoption assistance will be provided after the adoption is finalized. This bill prohibits a person who has committed, within the past five years, certain alcohol-related felonies from being licensed to operate such a foster home or treatment foster home. Those felonies include homicide by intoxicated use of a firearm or vehicle, causing injury by intoxicated use of a vehicle, felony operation of a motor vehicle while intoxicated (fifth offense or with a minor under 16 years of age in the vehicle), causing injury or death by providing alcohol beverages to a minor, providing false proof of age to an underage person for money or other consideration, impersonating an employee of the department of revenue or the department of justice with intent to commit a crime, manufacturing intoxicating liquor without a permit, and using, selling, or otherwise disposing of alcohol redistilled from denatured alcohol.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.21 (1) (a) of the statutes is amended to read:

2 48.21 (1) (a) If a child who has been taken into custody is not released under

3 s. 48.20, a hearing to determine whether the child shall continue to be held in custody

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1 under the criteria of ss. 48.205 to 48.209 shall be conducted by the judge or juvenile
2 court commissioner within 48 hours of the time the decision to hold the child was
3 made, excluding Saturdays, Sundays, and legal holidays. By the time of the hearing
4 a petition under s. 48.25 shall be filed, except that no petition need be filed where a
5 child is taken into custody under s. 48.19 (1) (b) or (d) 2. or 7. or where the child is
6 a runaway from another state, in which case a written statement of the reasons for
7 holding a child in custody shall be substituted if the petition is not filed. If no hearing
8 has been held within 48 hours, excluding Saturdays, Sundays, and legal holidays,
9 or if no petition or statement has been filed at the time of the hearing, the child shall
10 be released except as provided in par. (b). A parent not present at the hearing shall
11 be granted a rehearing upon request, ~~unless the parent has waived his or her right~~
12 ~~to participate in the hearing, in which case the parent shall be granted a rehearing~~
13 ~~upon request for good cause shown.~~

14 **SECTION 2.** 48.21 (3) (am) of the statutes is amended to read:

15 48.21 (3) (am) The parent, guardian, or legal custodian may waive his or her
16 right to participate in the hearing under this section. ~~Agreement in writing of the~~
17 ~~child is required if he or she is over 12.~~ After any waiver, a hearing rehearing shall
18 be granted at the request of any the parent, guardian, legal custodian, or any other
19 interested party for good cause shown.

20 **SECTION 3.** 48.21 (3) (e) of the statutes is amended to read:

21 48.21 (3) (e) If the parent, guardian, or legal custodian or the child is not
22 represented by counsel at the hearing and the child is continued in custody as a result
23 of the hearing, the parent, guardian, legal custodian, or child may request through
24 counsel subsequently appointed or retained or through a guardian ad litem that the
25 order to hold the child in custody be reheard. If the request is made, a rehearing shall

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a finding as to whether the person who took the child into custody and the intake worker have made reasonable efforts

SECTION 3

take place as soon as possible unless the request is made by a parent, guardian, or legal custodian who has waived his or her right to participate in the hearing, in which case a rehearing shall take place only upon a showing of good cause. Any order to hold the child in custody shall be subject to rehearing for good cause, whether or not counsel was present.

SECTION 4. 48.21 (5) (b) 1. of the statutes, as affected by 2001 Wisconsin Act 16, is repealed and recreated to read:

48.21 (5) (b) 1. A finding that continued placement of the child in his or her home would be contrary to the welfare of the child and, unless the judge or juvenile court commissioner finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies, a finding as to whether the person who took the child into custody and the intake worker have made reasonable efforts to prevent the removal of the child from the home, while assuring that the child's health and safety are the paramount concerns, and to make it possible for the child to return safely home or, if for good cause shown sufficient information is not available for the judge or juvenile court commissioner to make ~~those findings~~ an order for the county department, department, in a county having a population of 500,000 or more, or agency primarily responsible for providing services to the child under the custody order to file with the court sufficient information for the judge or juvenile court commissioner to make ~~those findings~~ by no later than 5 days after the date of the order.

SECTION 5. 48.21 (5) (b) 3. of the statutes is created to read:

48.21 (5) (b) 3. If the judge or juvenile court commissioner finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, a determination that the county department, department, in a county having a population of 500,000 or more, or agency primarily responsible for providing services

a finding as to whether those reasonable efforts were made to prevent the removal of the child from the home

a finding as to whether those reasonable efforts were made to prevent the removal of the child from the home, a finding as to whether those reasonable efforts were made to make it possible for the child to return safely home and

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1 under the custody order is not required to make reasonable efforts with respect to the
2 parent to make it possible for the child to return safely to his or her home.

3 **SECTION 6.** 48.21 (5) (c) of the statutes is created to read:

4 48.21 (5) (c) The judge or juvenile court commissioner shall make the findings
5 specified in par. (b) 1. and 3. on a case-by-case basis based on circumstances specific
6 to the child and shall document or reference the specific information on which those
7 findings are based in the custody order. A custody order that merely references par.
8 (b) 1. or 3. without documenting or referencing that specific information in the
9 custody order or an amended custody order that retroactively corrects an earlier
10 custody order that does not comply with this paragraph is not sufficient to comply
11 with this paragraph.

12 **SECTION 7.** 48.21 (5) (d) of the statutes is created to read:

13 48.21 (5) (d) 1. If the judge or juvenile court commissioner finds that any of the
14 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent,
15 the judge or juvenile court commissioner shall hold a hearing within 30 days after
16 the date of that finding to determine the permanency plan for the child. If a hearing
17 is held under this subdivision, the agency responsible for preparing the permanency
18 plan shall file the permanency plan with the court not less than 5 days before the date
19 of the hearing.

20 2. If a hearing is held under subd. 1., at least 10 days before the date of the
21 hearing the court shall notify the child, any parent, guardian, and legal custodian
22 of the child, and any foster parent, treatment foster parent, or other physical
23 custodian described in s. 48.62 (2) of the child of the time, place, and purpose of the
24 hearing.

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1 3. The court shall give a foster parent, treatment foster parent, or other
2 physical custodian described in s. 48.62 (2) who is notified of a hearing under subd.
3 2. an opportunity to be heard at the hearing by permitting the foster parent,
4 treatment foster parent, or other physical custodian to make a written or oral
5 statement during the hearing, or to submit a written statement prior to the hearing,
6 relevant to the issues to be determined at the hearing. Any written or oral statement
7 made under this subdivision shall be made upon oath or affirmation. A foster parent,
8 treatment foster parent, or other physical custodian who receives a notice of a
9 hearing under subd. 2. and an opportunity to be heard under this subdivision does
10 not become a party to the proceeding on which the hearing is held solely on the basis
11 of receiving that notice and opportunity to be heard.

12 **SECTION 8.** 48.255 (1) (f) of the statutes is created to read:

13 48.255 (1) (f) If the child is being held in custody outside of his or her home,
14 reliable and credible information showing that continued placement of the child in
15 his or her home would be contrary to the welfare of the child and, unless any of the
16 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies, reliable and credible
17 information showing that the person who took the child into custody and the intake
18 worker have made reasonable efforts to prevent the removal of the child from the
19 home, while assuring that the child's health and safety are the paramount concerns,
20 and to make it possible for the child to return safely home.

21 **SECTION 9.** 48.255 (1m) (f) of the statutes is created to read:

22 48.255 (1m) (f) If the expectant mother is a child and the child expectant
23 mother is being held in custody outside of her home, reliable and credible information
24 showing that continued placement of the child expectant mother in her home would
25 be contrary to the welfare of the child expectant mother and, unless any of the

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1 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies, reliable and credible
2 information showing that the person who took the child expectant mother into
3 custody and the intake worker have made reasonable efforts to prevent the removal
4 of the child expectant mother from the home, while assuring that the child expectant
5 mother's health and safety are the paramount concerns, and to make it possible for
6 the child expectant mother to return safely home.

7 **SECTION 10.** 48.255 (2) of the statutes is amended to read:

8 48.255 (2) If any of the facts required under sub. (1) (a) to (cm) and (f) or (1m)
9 (a) to (d) and (f) are not known or cannot be ascertained by the petitioner, the petition
10 shall so state.

11 **SECTION 11.** 48.27 (3) (a) 1m. of the statutes is amended to read:

12 48.27 (3) (a) 1m. The court shall give a foster parent, treatment foster parent,
13 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under
14 subd. 1. an opportunity to be heard at the hearing by permitting the foster parent,
15 treatment foster parent, or other physical custodian to make a written or oral
16 statement during the hearing, or to submit a written statement prior to the hearing,
17 relevant to the issues to be determined at the hearing. Any written or oral statement
18 made under this subdivision shall be made upon oath or affirmation. A foster parent,
19 treatment foster parent, or other physical custodian described in s. 48.62 (2) who
20 receives a notice of a hearing under subd. 1. and an opportunity to be heard under
21 this subdivision does not become a party to the proceeding on which the hearing is
22 held solely on the basis of receiving that notice and opportunity to be heard.

23 **SECTION 12.** 48.315 (2m) of the statutes is created to read:

24 48.315 (2m) (a) No continuance or extension of a time limit specified in this
25 chapter may be granted and no period of delay specified in sub. (1) may be excluded

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1 in computing a time requirement under this chapter if the continuance, extension,
2 or exclusion would result in any of the following:

3 1. The court making an initial finding under s. 48.21 (5) (b) 1., 48.355 (2) (b) 6.,
4 or 48.357 (2v) (a) 1. that reasonable efforts have been made to prevent the removal
5 of the child from the home, while assuring that the child's health and safety are the
6 paramount concerns, or an initial finding under s. 48.21 (5) (b) 3., 48.355 (2) (b) 6r.,
7 or 48.357 (2v) (a) 3. that those efforts were not required to be made because a
8 circumstance specified in s. 48.355 (2d) (b) 1. to 5. applies, more than 60 days after
9 the date on which the child was removed from the home.

10 2. The court making an initial finding under s. 48.38 (5m) that the agency
11 primarily responsible for providing services to the child has made reasonable efforts
12 to achieve the goals of the child's permanency plan more than 12 months after the
13 date on which the child was removed from the home or making any subsequent
14 findings under s. 48.38 (5m) as to those reasonable efforts more than 12 months after
15 the date of a previous finding as to those reasonable efforts.

*, while assuring the
safety of the child,*

16 (b) Failure to comply with any time limit specified in par. (a) does not deprive
17 the court of personal or subject matter jurisdiction or of competency to exercise that
18 jurisdiction. If a party does not comply with a time limit specified in par. (a), the court
19 may dismiss the proceeding with or without prejudice, release the child from custody,
20 or grant any other relief that the court considers appropriate.

21 **SECTION 13.** 48.32 (1) of the statutes is renumbered 48.32 (1) (a).

22 **SECTION 14.** 48.32 (1) (b) of the statutes is created to read:

23 48.32 (1) (b) 1. If at the time the consent decree is entered into the child is placed
24 outside the home under a voluntary agreement under s. 48.63 or is otherwise living
25 outside the home without a court order and if the consent decree maintains the child

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1 in that placement or other living arrangement, the consent decree shall include a
2 finding that placement of the child in his or her home would be contrary to the welfare
3 of the child, a finding as to whether the county department, the department, in a
4 county having a population of 500,000 or more, or the agency primarily responsible
5 for providing services to the child has made reasonable efforts to prevent the removal
6 of the child from the home, while assuring that the child's health and safety are the
7 paramount concerns, unless the judge or juvenile court commissioner finds that any
8 of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies, and a finding as
9 to whether the county department, department, or agency has made reasonable
10 efforts to achieve the goal of the child's permanency plan, unless return of the child
11 to the home is the goal of the permanency plan and the judge or juvenile court
12 commissioner finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to
13 5. applies.

14 2. If the judge or juvenile court commissioner finds that any of the
15 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent,
16 the consent decree shall include a determination that the county department,
17 department, in a county having a population of 500,000 or more, or agency primarily
18 responsible for providing services under the consent decree is not required to make
19 reasonable efforts with respect to the parent to make it possible for the child to return
20 safely to his or her home.

21 3. The judge or juvenile court commissioner shall make the findings specified
22 in subds. 1. and 2. on a case-by-case basis based on circumstances specific to the
23 child and shall document or reference the specific information on which those
24 findings are based in the consent decree. A consent decree that merely references
25 subd. 1. or 2. without documenting or referencing that specific information in the

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1 consent decree or an amended consent decree that retroactively corrects an earlier
2 consent decree that does not comply with this subdivision is not sufficient to comply
3 with this subdivision.

4 **SECTION 15.** 48.32 (1) (c) of the statutes is created to read:

5 48.32 (1) (c) 1. If the judge or juvenile court commissioner finds that any of the
6 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent,
7 the judge or juvenile court commissioner shall hold a hearing within 30 days after
8 the date of that finding to determine the permanency plan for the child. If a hearing
9 is held under this subdivision, the agency responsible for preparing the permanency
10 plan shall file the permanency plan with the court not less than 5 days before the date
11 of the hearing.

12 2. If a hearing is held under subd. 1., at least 10 days before the date of the
13 hearing the court shall notify the child, any parent, guardian, and legal custodian
14 of the child, and any foster parent, treatment foster parent, or other physical
15 custodian described in s. 48.62 (2) of the child of the time, place, and purpose of the
16 hearing.

17 3. The court shall give a foster parent, treatment foster parent, or other
18 physical custodian described in s. 48.62 (2) who is notified of a hearing under subd.
19 2. an opportunity to be heard at the hearing by permitting the foster parent,
20 treatment foster parent, or other physical custodian to make a written or oral
21 statement during the hearing, or to submit a written statement prior to the hearing,
22 relevant to the issues to be determined at the hearing. Any written or oral statement
23 made under this subdivision shall be made upon oath or affirmation. A foster parent,
24 treatment foster parent, or other physical custodian who receives a notice of a
25 hearing under subd. 2. and an opportunity to be heard under this subdivision does

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1 not become a party to the proceeding on which the hearing is held solely on the basis
2 of receiving that notice and opportunity to be heard.

3 **SECTION 16.** 48.33 (4) (intro.) of the statutes is amended to read:

4 48.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
5 placement of an adult expectant mother outside of her home shall be in writing. A
6 report recommending placement of a child in a foster home, treatment foster home,
7 group home, or child caring institution or in the home of a relative other than a
8 parent shall be in writing and shall include all of the following:

9 **SECTION 17.** 48.33 (4) (c) of the statutes is created to read:

10 48.33 (4) (c) Specific information showing that continued placement of the child
11 in his or her home would be contrary to the welfare of the child, specific information
12 showing that the county department, the department, in a county having a
13 population of 500,000 or more, or the agency primarily responsible for providing
14 services to the child has made reasonable efforts to prevent the removal of the child
15 from the home, while assuring that the child's health and safety are the paramount
16 concerns, unless any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5.
17 applies, and specific information showing that the county department, department,
18 or agency has made reasonable efforts to achieve the goal of the child's permanency
19 plan, unless return of the child to the home is the goal of the permanency plan and
20 any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies.

21 **SECTION 18.** 48.335 (3g) of the statutes is created to read:

22 48.335 (3g) At hearings under this section, if the agency, as defined in s. 48.38
23 (1) (a), is recommending placement of the child in a foster home, treatment foster
24 home, group home, or child caring institution or in the home of a relative other than
25 a parent, the agency shall present as evidence specific information showing that

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1 continued placement of the child in his or her home would be contrary to the welfare
2 of the child, specific information showing that the county department, the
3 department, in a county having a population of 500,000 or more, or the agency
4 primarily responsible for providing services to the child has made reasonable efforts
5 to prevent the removal of the child from the home, while assuring that the child's
6 health and safety are the paramount concerns, unless any of the circumstances
7 specified in s. 48.355 (2d) (b) 1. to 5. applies, and specific information showing that
8 the county department, department, or agency has made reasonable efforts to
9 achieve the goal of the child's permanency plan, unless return of the child to the home
10 is the goal of the permanency plan and any of the circumstances specified in s. 48.355
11 (2d) (b) 1. to 5. applies.

12 **SECTION 19.** 48.355 (2) (b) 6. of the statutes is amended to read:

13 48.355 (2) (b) 6. If the child is placed outside the home, a finding that continued
14 placement of the child in his or her home would be contrary to the ~~health, safety and~~
15 welfare of the child ~~and, if sub. (2d) does not apply,~~ a finding as to whether the county
16 department, the department, in a county having a population of 500,000 or more, or
17 the agency primarily responsible for providing services under a court order has made
18 reasonable efforts to prevent the removal of the child from the home, while assuring
19 that the child's health and safety are the paramount concerns, ~~or, if applicable,~~
20 unless the court finds that any of the circumstances specified in sub. (2d) (b) 1. to 5.
21 applies, and a finding as to whether the county department, department, or agency
22 primarily responsible for providing services under a court order has made reasonable
23 efforts to ~~make it possible for the child to return safely to his or her home~~ achieve the
24 goal of the child's permanency plan, unless return of the child to the home is the goal
25 of the permanency plan and the court finds that any of the circumstances specified

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1 in sub. (2d) (b) 1. to 5. applies. The court shall make the findings specified in this
2 subdivision on a case-by-case basis based on circumstances specific to the child and
3 shall document or reference the specific information on which those findings are
4 based in the court order. A court order that merely references this subdivision
5 without documenting or referencing that specific information in the court order or
6 an amended court order that retroactively corrects an earlier court order that does
7 not comply with this subdivision is not sufficient to comply with this subdivision.

8 **SECTION 20.** 48.355 (2) (b) 6r. of the statutes is created to read:

9 48.355 (2) (b) 6r. If the court finds that any of the circumstances specified in
10 sub. (2d) (b) 1. to 5. applies with respect to a parent, a determination that the county
11 department, department, in a county having a population of 500,000 or more, or
12 agency primarily responsible for providing services under the court order is not
13 required to make reasonable efforts with respect to the parent to make it possible for
14 the child to return safely to his or her home.

15 **SECTION 21.** 48.355 (2b) of the statutes is amended to read:

16 48.355 (2b) CONCURRENT REASONABLE EFFORTS PERMITTED. A county
17 department, the department, in a county having a population of 500,000 or more, or
18 the agency primarily responsible for providing services to a child under a court order
19 may, at the same time as the county department, department, or agency is making
20 the reasonable efforts required under sub. (2) (b) 6. to prevent the removal of the child
21 from the home or to make it possible for the child to return safely to his or her home,
22 work with the department, a county department under s. 48.57 (1) (c) or (hm), or a
23 child welfare agency licensed under s. 48.61 (5) in making reasonable efforts to place
24 the child for adoption, with a guardian, with a fit and willing relative, or in some
25 other alternative permanent placement.

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SECTION 22

1 **SECTION 22.** 48.355 (2c) (b) of the statutes is amended to read:

2 48.355 (2c) (b) When a court makes a finding under sub. (2) (b) 6. as to whether
3 the county department, department, in a county having a population of 500,000 or
4 more, or agency primarily responsible for providing services to the child under a
5 court order has made reasonable efforts to ~~make it possible for the child to return~~
6 safely to his or her home achieve the goal of the permanency plan, the court's
7 consideration of reasonable efforts shall include, ~~but not be limited to~~, the
8 considerations listed under par. (a) 1. to 5. and whether visitation schedules between
9 the child and his or her parents were implemented, unless visitation was denied or
10 limited by the court.

11 **SECTION 23.** 48.355 (2d) (b) (intro.) of the statutes is amended to read:

12 48.355 (2d) (b) (intro.) Notwithstanding sub. (2) (b) 6., the court ~~need not~~ is not
13 required to include in a dispositional order a finding as to whether the county
14 department, the department, in a county having a population of 500,000 or more, or
15 the agency primarily responsible for providing services under a court order has made
16 reasonable efforts with respect to a parent of a child to prevent the removal of the
17 child from the home, while assuring that the child's health and safety are the
18 paramount concerns, or, ~~if applicable~~, a finding as to whether the county department,
19 department, or agency primarily responsible for providing services ~~under a court~~
20 order has made reasonable efforts with respect to a parent of a child to ~~make it~~
21 ~~possible for the child to return~~ achieve the permanency plan goal of returning the
22 child safely to his or her home, if the court finds, ~~as evidenced by a final judgment~~
23 of conviction, any of the following:

24 **SECTION 24.** 48.355 (2d) (b) 1. of the statutes is amended to read:

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1 48.355 (2d) (b) 1. That the parent has subjected the child to aggravated
2 circumstances, as evidenced by a final judgment of conviction.

3 **SECTION 25.** 48.355 (2d) (b) 2. of the statutes is amended to read:

4 48.355 (2d) (b) 2. That the parent has committed, has aided or abetted the
5 commission of, or has solicited, conspired, or attempted to commit, a violation of s.
6 940.01, 940.02, 940.03, or 940.05 or a violation of the law of any other state or federal
7 law, if that violation would be a violation of s. 940.01, 940.02, 940.03, or 940.05 if
8 committed in this state, as evidenced by a final judgment of conviction, and that the
9 victim of that violation is a child of the parent.

10 **SECTION 26.** 48.355 (2d) (b) 3. of the statutes is amended to read:

11 48.355 (2d) (b) 3. That the parent has committed a violation of s. 940.19 (2), (3),
12 (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.03 (2) (a) or (3) (a) or
13 a violation of the law of any other state or federal law, if that violation would be a
14 violation of s. 940.19 (2), (3), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025,
15 or 948.03 (2) (a) or (3) (a) if committed in this state, as evidenced by a final judgment
16 of conviction, and that the violation resulted in great bodily harm, as defined in s.
17 939.22 (14), or in substantial bodily harm, as defined in s. 939.22 (38), to the child
18 or another child of the parent.

19 **SECTION 27.** 48.355 (2d) (b) 4. of the statutes is amended to read:

20 48.355 (2d) (b) 4. That the parental rights of the parent to another child have
21 been involuntarily terminated, as evidenced by a final order of a court of competent
22 jurisdiction terminating those parental rights.

23 **SECTION 28.** 48.355 (2d) (b) 5. of the statutes, as created by 2001 Wisconsin Act
24 2, is amended to read:

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1 48.355 (2d) (b) 5. That the parent has been found under s. 48.13 (2m) to have
2 relinquished custody of the child under s. 48.195 (1) when the child was 72 hours old
3 or younger, as evidenced by a final order of a court of competent jurisdiction making
4 that finding.

5 **SECTION 29.** 48.355 (2d) (bm) of the statutes is created to read:

6 48.355 (2d) (bm) The court shall make a finding specified in par. (b) 1. to 5. on
7 a case-by-case basis based on circumstances specific to the child and shall document
8 or reference the specific information on which that finding is based in the
9 dispositional order. A dispositional order that merely references par. (b) 1. to 5.
10 without documenting or referencing that specific information in the dispositional
11 order or an amended dispositional order that retroactively corrects an earlier
12 dispositional order that does not comply with this paragraph is not sufficient to
13 comply with this paragraph.

14 **SECTION 30.** 48.355 (2d) (c) of the statutes, as affected by 2001 Wisconsin Act
15 2, is renumbered 48.355 (2d) (c) 1. and amended to read:

16 48.355 (2d) (c) 1. If the court ~~makes a finding~~ finds that any of the
17 circumstances specified in par. (b) 1., 2., 3., 4., or 5. to 5. applies with respect to a
18 parent, the court shall hold a hearing within 30 days after the date of that finding
19 to determine the permanency plan for the child. If a hearing is held under this
20 paragraph subdivision, the agency responsible for preparing the permanency plan
21 shall file the permanency plan with the court not less than 5 days before the date of
22 the hearing.

23 **SECTION 31.** 48.355 (2d) (c) 2. and 3. of the statutes are created to read:

24 48.355 (2d) (c) 2. If a hearing is held under subd. 1., at least 10 days before the
25 date of the hearing the court shall notify the child, any parent, guardian, and legal

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1 custodian of the child, and any foster parent, treatment foster parent, or other
2 physical custodian described in s. 48.62 (2) of the child of the time, place, and purpose
3 of the hearing.

4 3. The court shall give a foster parent, treatment foster parent, or other
5 physical custodian described in s. 48.62 (2) who is notified of a hearing under subd.
6 2. an opportunity to be heard at the hearing by permitting the foster parent,
7 treatment foster parent, or other physical custodian to make a written or oral
8 statement during the hearing, or to submit a written statement prior to the hearing,
9 relevant to the issues to be determined at the hearing. Any written or oral statement
10 made under this subdivision shall be made upon oath or affirmation. A foster parent,
11 treatment foster parent, or other physical custodian who receives a notice of a
12 hearing under subd. 2. and an opportunity to be heard under this subdivision does
13 not become a party to the proceeding on which the hearing is held solely on the basis
14 of receiving that notice and opportunity to be heard.

15 **SECTION 32.** 48.355 (4) of the statutes is amended to read:

16 48.355 (4) TERMINATION OF ORDERS. Except as provided under s. 48.368, all
17 orders an order under this section shall ~~terminate at the end of one year unless the~~
18 ~~judge specifies a shorter period of time. Except if s. 48.368 applies, extensions or~~
19 ~~revisions or s. 48.357 or 48.365 made before the child reaches 18 years of age that~~
20 places or continues the placement of the child in his or her home shall terminate at
21 the end of one year after its entry unless the judge specifies a shorter period of time.
22 ~~Any order made before the child reaches the age of majority or or the judge~~
23 ~~terminates the order sooner. Except as provided under s. 48.368, an order under this~~
24 section or s. 48.357 or 48.365 made before the child reaches 18 years of age that places
25 or continues the placement of the child in a foster home, treatment foster home,

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1 group home, or residential treatment center or in the home of a relative other than
2 a parent shall terminate when the child reaches 18 years of age, at the end of one year
3 after its entry, or, if the child is a full-time student at a secondary school or its
4 vocational or technical equivalent and is reasonably expected to complete the
5 program before reaching 19 years of age, when the child reaches 19 years of age,
6 whichever is later, unless the judge specifies a shorter period of time or the judge
7 terminates the order sooner. An order under this section or s. 48.357 or 48.365
8 relating to an unborn child in need of protection or services that is made before the
9 unborn child is born shall be effective for a time up to terminate at the end of one year
10 after its entry unless the judge specifies a shorter period of time or the judge
11 terminates the order sooner.

12 **SECTION 33.** 48.357 (1) of the statutes is renumbered 48.357 (1) (a) and
13 amended to read:

14 48.357 (1) (a) The person or agency primarily responsible for implementing the
15 dispositional order, the district attorney, or the corporation counsel may request a
16 change in the placement of the child or expectant mother, whether or not the change
17 requested is authorized in the dispositional order and, as provided in par. (b) or (c),
18 whichever is applicable.

19 (b) 1. If the proposed change in placement involves any change in placement
20 other than a change in placement specified in par. (c), the person or agency primarily
21 responsible for implementing the dispositional order, the district attorney, or the
22 corporation counsel shall cause written notice of the proposed change in placement
23 to be sent to the child, the parent, guardian, and legal custodian of the child, any
24 foster parent, treatment foster parent, or other physical custodian described in s.
25 48.62 (2) of the child, the child's court-appointed special advocate, and, if the child

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1 is the expectant mother of an unborn child under s. 48.133, the unborn child by the
2 unborn child's guardian ad litem. If the expectant mother is an adult, written notice
3 shall be sent to the adult expectant mother and the unborn child by the unborn child's
4 guardian ad litem. The notice shall contain the name and address of the new
5 placement, the reasons for the change in placement, a statement describing why the
6 new placement is preferable to the present placement, and a statement of how the
7 new placement satisfies objectives of the treatment plan ordered by the court.

8 2. Any person receiving the notice under ~~this subsection~~ subd. 1. or notice of
9 a specific placement under s. 48.355 (2) (b) 2., other than a court-appointed special
10 advocate, may obtain a hearing on the matter by filing an objection with the court
11 within 10 days after receipt of the notice. Placements may not be changed until 10
12 days after that notice is sent to the court unless the parent, guardian, or legal
13 custodian and the child, if 12 years of age or over, or the child expectant mother, if
14 12 years of age or over, her parent, guardian, or legal custodian and the unborn child
15 by the unborn child's guardian ad litem, or the adult expectant mother and the
16 unborn child by the unborn child's guardian ad litem, sign written waivers of
17 objection, except that ~~placement changes which~~ changes in placement that were
18 authorized in the dispositional order may be made immediately if notice is given as
19 required ~~in this subsection~~ under subd. 1. In addition, a hearing is not required for
20 placement changes authorized in the dispositional order except when an objection
21 filed by a person who received notice alleges that new information is available ~~which~~
22 that affects the advisability of the court's dispositional order.

23 **SECTION 34.** 48.357 (1) (b) 3. of the statutes is created to read:

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1 48.357 (1) (b) 3. If the court changes the child's placement from a placement
2 outside the home to another placement outside the home, the change in placement
3 order shall contain one of the statements specified in sub. (2v) (a) 2.

4 **SECTION 35.** 48.357 (1) (c) of the statutes is created to read:

5 48.357 (1) (c) 1. If the proposed change in placement would change the
6 placement of a child placed in the home to a placement outside the home, the person
7 or agency primarily responsible for implementing the dispositional order, the district
8 attorney, or the corporation counsel shall submit a request for the change in
9 placement to the court. The request shall contain the name and address of the new
10 placement, the reasons for the change in placement, a statement describing why the
11 new placement is preferable to the present placement, and a statement of how the
12 new placement satisfies objectives of the treatment plan ordered by the court. The
13 request shall also contain specific information showing that continued placement of
14 the child in his or her home would be contrary to the welfare of the child and, unless
15 any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies, specific
16 information showing that the agency primarily responsible for implementing the
17 dispositional order has made reasonable efforts to prevent the removal of the child
18 from the home, while assuring that the child's health and safety are the paramount
19 concerns.

20 2. The court shall hold a hearing prior to ordering any change in placement
21 requested under subd. 1. Not less than 3 days prior to the hearing, the court shall
22 provide notice of the hearing, together with a copy of the request for the change in
23 placement, to the child, the parent, guardian, and legal custodian of the child, the
24 child's court-appointed special advocate, and all parties that are bound by the

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1 dispositional order. If all parties consent, the court may proceed immediately with
2 the hearing.

3 3. If the court changes the child's placement from a placement in the child's
4 home to a placement outside the child's home, the change in placement order shall
5 contain the findings specified in sub. (2v) (a) 1., one of the statements specified in sub.
6 (2v) (a) 2., and, if in addition the court finds that any of the circumstances specified
7 in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the determination
8 specified in sub. (2v) (a) 3.

9 **SECTION 36.** 48.357 (2) of the statutes is amended to read:

10 48.357 (2) If emergency conditions necessitate an immediate change in the
11 placement of a child or expectant mother placed outside the home, the person or
12 agency primarily responsible for implementing the dispositional order may remove
13 the child or expectant mother to a new placement, whether or not authorized by the
14 existing dispositional order, without the prior notice provided in sub. (1) (b) 1. The
15 notice shall, however, be sent within 48 hours after the emergency change in
16 placement. Any party receiving notice may demand a hearing under sub. (1) (b) 2.
17 In emergency situations, a child may be placed in a licensed public or private shelter
18 care facility as a transitional placement for not more than 20 days, as well as in any
19 placement authorized under s. 48.345 (3).

20 **SECTION 37.** 48.357 (2m) of the statutes is renumbered 48.357 (2m) (a) and
21 amended to read:

22 48.357 (2m) (a) The child, the parent, guardian, or legal custodian of the child,
23 the expectant mother, the unborn child by the unborn child's guardian at litem, or
24 any person or agency primarily bound by the dispositional order, other than the
25 person or agency responsible for implementing the order, may request a change in

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SECTION 37

1 placement under this ~~subsection~~ paragraph. The request shall contain the name and
2 address of the ~~place of~~ the new placement requested and shall state what new
3 information is available ~~which~~ that affects the advisability of the current placement.
4 If the proposed change in placement would change the placement of a child placed
5 in the home to a placement outside the home, the request shall also contain specific
6 information showing that continued placement of the child in the home would be
7 contrary to the welfare of the child and, unless any of the circumstances specified in
8 s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency
9 primarily responsible for implementing the dispositional order has made reasonable
10 efforts to prevent the removal of the child from the home, while assuring that the
11 child's health and safety are the paramount concerns. This request shall be
12 submitted to the court. In addition, the court may propose a change in placement on
13 its own motion.

14 (b) The court shall hold a hearing on the matter prior to ordering any change
15 in placement ~~under this subsection~~ requested or proposed under par. (a) if the
16 request states that new information is available ~~which~~ that affects the advisability
17 of the current placement, unless the requested or proposed change in placement
18 involves any change in placement other than a change in placement of a child placed
19 in the home to a placement outside the home and written waivers of objection to the
20 proposed change in placement are signed by all persons entitled to receive notice
21 under sub. (1) (b) 1., other than a court-appointed special advocate, and the court
22 approves. If a hearing is scheduled, the court shall notify the child, the parent,
23 guardian, and legal custodian of the child, any foster parent, treatment foster parent,
24 or other physical custodian described in s. 48.62 (2) of the child, the child's
25 court-appointed special advocate, all parties who are bound by the dispositional

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1 order and, if the child is the expectant mother of an unborn child under s. 48.133, the
2 unborn child by the unborn child's guardian ad litem, or shall notify the adult
3 expectant mother, the unborn child by the unborn child's guardian ad litem and all
4 parties who are bound by the dispositional order, at least 3 days prior to the hearing.
5 A copy of the request or proposal for the change in placement shall be attached to the
6 notice. If all the parties consent, the court may proceed immediately with the
7 hearing.

8 **SECTION 38.** 48.357 (2m) (c) of the statutes is created to read:

9 48.357 (2m) (c) If the court changes the child's placement from a placement in
10 the child's home to a placement outside the child's home, the change in placement
11 order shall contain the findings specified in sub. (2v) (a) 1., one of the statements
12 specified in sub. (2v) (a) 2., and, if in addition the court finds that any of the
13 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent,
14 the determination specified in sub. (2v) (a) 3.

15 **SECTION 39.** 48.357 (2r) of the statutes is amended to read:

16 48.357 (2r) If a hearing is held under sub. (1) (b) 2. or (2m) (b) and the change
17 in placement would remove a child from a foster home, treatment foster home, or
18 other placement with a physical custodian described in s. 48.62 (2), the court shall
19 give the foster parent, treatment foster parent, or other physical custodian described
20 in s. 48.62 (2) an opportunity to be heard at the hearing by permitting the foster
21 parent, treatment foster parent, or other physical custodian to make a written or oral
22 statement during the hearing or to submit a written statement prior to the hearing
23 relating to the child and the requested change in placement. Any written or oral
24 statement made under this subsection shall be made under oath or affirmation. A
25 foster parent, treatment foster parent, or other physical custodian described in s.

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1 48.62 (2) who receives notice of a hearing under sub. (1) (b) 1. or (2m) (b) and an
2 opportunity to be heard under this subsection does not become a party to the
3 proceeding on which the hearing is held solely on the basis of receiving that notice
4 and opportunity to be heard.

5 **SECTION 40.** 48.357 (2v) of the statutes, as created by 2001 Wisconsin Act 16,
6 is renumbered 48.357 (2v) (a) 2. and amended to read:

7 48.357 (2v) (a) 2. ~~If a hearing is held under sub. (1) or (2m) and the change in~~
8 ~~placement would place the child outside the home in a placement order would change~~
9 ~~the placement of the child to a placement outside the home~~ recommended by the
10 person or agency primarily responsible for implementing the dispositional order, ~~the~~
11 ~~change in placement order shall include whether from a placement in the home or~~
12 ~~from another placement outside the home,~~ a statement that the court approves the
13 placement recommended by that person or agency or, if the child is placed outside the
14 home in a placement other than change in placement order would change the
15 placement of the child to a placement outside the home that is not a placement
16 recommended by that person or agency, whether from a placement in the home or
17 from another placement outside the home, a statement that the court has given bona
18 fide consideration to the recommendations made by that person or agency and all
19 parties relating to the child's placement.

20 **SECTION 41.** 48.357 (2v) (a) (intro.) of the statutes is created to read:

21 48.357 (2v) (a) (intro.) A change in placement order under sub. (1) or (2m) shall
22 contain all of the following:

23 **SECTION 42.** 48.357 (2v) (a) 1. of the statutes is created to read:

24 48.357 (2v) (a) 1. If the change in placement order changes the child's
25 placement from a placement in the child's home to a placement outside the child's

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1 home, a finding that continued placement of the child in his or her home would be
2 contrary to the welfare of the child and, unless a circumstance specified in s. 48.355
3 (2d) (b) 1. to 5. applies, a finding that the agency primarily responsible for
4 implementing the dispositional order has made reasonable efforts to prevent the
5 removal of the child from the home, while assuring that the child's health and safety
6 are the paramount concerns.

7 **SECTION 43.** 48.357 (2v) (a) 3. of the statutes is created to read:

8 48.357 (2v) (a) 3. If the court finds that any of the circumstances specified in
9 s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, a determination that the
10 agency primarily responsible for providing services under the change in placement
11 order is not required to make reasonable efforts with respect to the parent to make
12 it possible for the child to return safely to his or her home.

13 **SECTION 44.** 48.357 (2v) (b) of the statutes is created to read:

14 48.357 (2v) (b) The court shall make the findings specified in par. (a) 1. and 3.
15 on a case-by-case basis based on circumstances specific to the child and shall
16 document or reference the specific information on which those findings are based in
17 the change in placement order. A change in placement order that merely references
18 par. (a) 1. or 3. without documenting or referencing that specific information in the
19 change in placement order or an amended change in placement order that
20 retroactively corrects an earlier change in placement order that does not comply with
21 this paragraph is not sufficient to comply with this paragraph.

22 **SECTION 45.** 48.357 (2v) (c) of the statutes is created to read:

23 48.357 (2v) (c) 1. If the court finds under par. (a) 3. that any of the
24 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent,
25 the court shall hold a hearing within 30 days after the date of that finding to

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1 determine the permanency plan for the child. If a hearing is held under this
2 subdivision, the agency responsible for preparing the permanency plan shall file the
3 permanency plan with the court not less than 5 days before the date of the hearing.

4 2. If a hearing is held under subd. 1., at least 10 days before the date of the
5 hearing the court shall notify the child, any parent, guardian, and legal custodian
6 of the child, and any foster parent, treatment foster parent, or other physical
7 custodian described in s. 48.62 (2) of the child of the time, place, and purpose of the
8 hearing.

9 3. The court shall give a foster parent, treatment foster parent, or other
10 physical custodian described in s. 48.62 (2) who is notified of a hearing under subd.
11 2. an opportunity to be heard at the hearing by permitting the foster parent,
12 treatment foster parent, or other physical custodian to make a written or oral
13 statement during the hearing, or to submit a written statement prior to the hearing,
14 relevant to the issues to be determined at the hearing. Any written or oral statement
15 made under this subdivision shall be made upon oath or affirmation. A foster parent,
16 treatment foster parent, or other physical custodian who receives a notice of a
17 hearing under subd. 2. and an opportunity to be heard under this subdivision does
18 not become a party to the proceeding on which the hearing is held solely on the basis
19 of receiving that notice and opportunity to be heard.

20 **SECTION 46.** 48.357 (6) of the statutes is amended to read:

21 48.357 (6) No change in placement may extend the expiration date of the
22 original order, except that if the change in placement is from a placement in the
23 child's home to a placement outside the home the court may extend the expiration
24 date of the original order to the date on which the child reaches 18 years of age, to
25 the date that is one year after the date of the change in placement order, or, if the child

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1 is a full-time student at a secondary school or its vocational or technical equivalent
2 and is reasonably expected to complete the program before reaching 19 years of age.
3 to the date on which the child reaches 19 years of age, whichever is later, or for a
4 shorter period of time as specified by the court. If the change in placement is from
5 a placement outside the home to a placement in the child's home and if the expiration
6 date of the original order is more than one year after the date of the change in
7 placement order, the court shall shorten the expiration date of the original order to
8 the date that is one year after the date of the change in placement order or to an
9 earlier date as specified by the court.

10 **SECTION 47.** 48.365 (1) of the statutes is amended to read:

11 48.365 (1) In this section, a child is considered to have been placed outside of
12 his or her home on the date on which the court first found that the child has been
13 subjected to abuse or neglect or on the date that is 60 days after the date on which
14 the child was first removed from his or her home, ~~whichever is earlier.~~

15 **SECTION 48.** 48.365 (2g) (b) 2. of the statutes is amended to read:

16 48.365 (2g) (b) 2. An evaluation of the child's adjustment to the placement and
17 of any progress the child has made, suggestions for amendment of the permanency
18 plan, ~~a description of efforts to return the child safely to his or her home and specific~~
19 information showing the efforts that have been made to achieve the goal of the
20 permanency plan, including, if applicable, the efforts of the parents to remedy the
21 factors which that contributed to the child's placement and, if continued placement
22 outside of the child's home is recommended, an explanation of why returning the
23 child to his or her home is not safe or feasible, unless return of the child to the home
24 is the goal of the permanency plan and any of the circumstances specified in s. 48.355
25 (2d) (b) 1. to 5. applies.

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the first 6 months of any period
during which

1 SECTION 49. 48.365 (2g) (b) 3. of the statutes is amended to read:

2 48.365 (2g) (b) 3. If the child has been placed outside of his or her home for 15
3 of the most recent 22 months, not including any period during which the child was
4 a runaway from the out-of-home placement or the child was returned to his or her
5 home for a trial home visit of 6 months or less, a statement of whether or not a
6 recommendation has been made to terminate the parental rights of the parents of
7 the child. If a recommendation for a termination of parental rights has been made,
8 the statement shall indicate the date on which the recommendation was made, any
9 previous progress made to accomplish the termination of parental rights, any
10 barriers to the termination of parental rights, specific steps to overcome the barriers
11 and when the steps will be completed, reasons why adoption would be in the best
12 interest of the child, and whether or not the child should be registered with the
13 adoption information exchange. If a recommendation for termination of parental
14 rights has not been made, the statement shall include an explanation of the reasons
15 why a recommendation for termination of parental rights has not been made. If the
16 lack of appropriate adoptive resources is the primary reason for not recommending
17 a termination of parental rights, the agency shall recommend that the child be
18 registered with the adoption information exchange or report the reason why
19 registering the child is contrary to the best interest of the child.

20 SECTION 50. 48.365 (2m) (a) of the statutes is renumbered 48.365 (2m) (a) 1.
21 and amended to read:

22 48.365 (2m) (a) 1. Any party may present evidence relevant to the issue of
23 extension. If the child is placed outside of his or her home, the person or agency
24 primarily responsible for providing services to the child shall present as evidence
25 specific information showing that the agency has made reasonable efforts to achieve

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1 the goal of the child's permanency plan, unless return of the child to the home is the
2 goal of the permanency plan and any of the circumstances specified in s. 48.355 (2d)
3 (b) 1. to 5. applies. The judge shall make findings of fact and conclusions of law based
4 on the evidence. ~~Subject to s. 48.355 (2d), the~~ The findings of fact shall include a
5 finding as to whether reasonable efforts were made by the agency primarily
6 responsible for providing services to the child ~~or expectant mother to make it possible~~
7 ~~for the child to return safely to his or her home or for the expectant mother to return~~
8 ~~to her home to achieve the goal of the child's permanency plan, unless return of the~~
9 child to the home is the goal of the permanency plan and the judge finds that any of
10 the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies. An order shall be
11 issued under s. 48.355.

12 **SECTION 51.** 48.365 (2m) (a) 2. of the statutes is created to read:

13 48.365 (2m) (a) 2. If the judge finds that any of the circumstances specified in
14 s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the order shall include a
15 determination that the person or agency primarily responsible for providing services
16 to the child is not required to make reasonable efforts with respect to the parent to
17 make it possible for the child to return safely to his or her home.

18 **SECTION 52.** 48.365 (2m) (a) 3. of the statutes is created to read:

19 48.365 (2m) (a) 3. The judge shall make the findings specified in subd. 1.
20 relating to reasonable efforts to achieve the goal of the child's permanency plan and
21 the findings specified in subd. 2. on a case-by-case basis based on circumstances
22 specific to the child and shall document or reference the specific information on
23 which those findings are based in the order issued under s. 48.355. An order that
24 merely references subd. 1. or 2. without documenting or referencing that specific
25 information in the order or an amended order that retroactively corrects an earlier

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1 order that does not comply with this subdivision is not sufficient to comply with this
2 subdivision.

3 **SECTION 53.** 48.365 (2m) (ad) of the statutes is created to read:

4 48.365 (2m) (ad) 1. If the judge finds that any of the circumstances specified
5 in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the judge shall hold a
6 hearing within 30 days after the date of that finding to determine the permanency
7 plan for the child. If a hearing is held under this subdivision, the agency responsible
8 for preparing the permanency plan shall file the permanency plan with the court not
9 less than 5 days before the date of the hearing.

10 2. If a hearing is held under subd. 1., at least 10 days before the date of the
11 hearing the court shall notify the child, any parent, guardian, and legal custodian
12 of the child, and any foster parent, treatment foster parent, or other physical
13 custodian described in s. 48.62 (2) of the child of the time, place, and purpose of the
14 hearing.

15 **SECTION 54.** 48.365 (2m) (ag) of the statutes is amended to read:

16 48.365 (2m) (ag) ~~In addition to any evidence presented under par. (a), the~~ The
17 court shall give a foster parent, treatment foster parent, or other physical custodian
18 described in s. 48.62 (2) ~~of the child~~ who is notified of a hearing under par. (ad) 2. or
19 sub. (2) an opportunity to be heard at the hearing by permitting the foster parent,
20 treatment foster parent, or other physical custodian to make a written or oral
21 statement during the hearing, or to submit a written statement prior to the hearing,
22 relevant to the issue of extension. Any written or oral statement made under this
23 paragraph shall be made under oath or affirmation. A foster parent, treatment foster
24 parent, or other physical custodian described in s. 48.62 (2) who receives notice of a
25 hearing under par. (ad) 2. or sub. (2) and an opportunity to be heard under this

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1 paragraph does not become a party to the proceeding on which the hearing is held
2 solely on the basis of receiving that notice and opportunity to be heard.

3 **SECTION 55.** 48.365 (5) of the statutes is amended to read:

4 48.365 (5) Except as provided in s. 48.368, all orders an order under this section
5 that continues the placement of a child in his or her home or that relates to an unborn
6 child of an adult expectant mother shall be for a specified length of time not to exceed
7 one year after its date of entry. Except as provided in s. 48.368, an order under this
8 section that continues the placement of a child in an out-of-home placement shall
9 be for a specified length of time not to exceed the date on which the child reaches 18
10 years of age, one year after the date of entry of the order, or, if the child is a full-time
11 student at a secondary school or its vocational or technical equivalent and is
12 reasonably expected to complete the program before reaching 19 years of age, the
13 date on which the child reaches 19 years of age, whichever is later.

14 **SECTION 56.** 48.38 (2) (intro.) of the statutes is amended to read:

15 48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
16 for each child living in a foster home, treatment foster home, group home,
17 child-caring institution, secure detention facility, or shelter care facility or in the
18 home of a relative other than a parent, the agency that placed the child or arranged
19 the placement or the agency assigned primary responsibility for providing services
20 to the child under s. 48.355 shall prepare a written permanency plan, if ~~one~~ any of
21 the following conditions exists:

22 **SECTION 57.** 48.38 (2) (c) of the statutes is amended to read:

23 48.38 (2) (c) The child is under the supervision of an agency under s. 48.64 (2)
24 or pursuant to, under a consent decree under s. 48.32 (1) (b), or under a court order
25 under s. 48.355.

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1 **SECTION 58.** 48.38 (2) (f) of the statutes is amended to read:

2 48.38 (2) (f) The child's care ~~is paid~~ would be paid for under s. 49.19 but for s.
3 49.19 (20).

4 **SECTION 59.** 48.38 (3) of the statutes is amended to read:

5 48.38 (3) TIME. Subject to s. 48.355 (2d) (c) 1., the agency shall file the
6 permanency plan with the court within 60 days after the date on which the child was
7 ~~first held in physical custody or placed outside of his or her home under a court order~~
8 ~~removed from his or her home~~, except that if the child is held for less than 60 days
9 in a secure detention facility, juvenile portion of a county jail, or a shelter care facility,
10 no permanency plan is required if the child is returned to his or her home within that
11 period.

12 **SECTION 60.** 48.38 (4) (intro.) of the statutes is amended to read:

13 48.38 (4) CONTENTS OF PLAN. (intro.) The permanency plan shall include ~~a~~
14 ~~description of all of the following:~~

15 **SECTION 61.** 48.38 (4) (a) of the statutes, as affected by 2001 Wisconsin Act 2,
16 is renumbered 48.38 (4) (ar) and amended to read:

17 48.38 (4) (ar) ~~The~~ A description of the services offered and any ~~service~~ services
18 provided in an effort to prevent ~~holding or placing the child outside of~~ the removal
19 of the child from his or her home, while assuring that the health and safety of the
20 child are the paramount concerns, and to ~~make it possible for the child to return~~
21 ~~safely home~~ achieve the goal of the permanency plan, except that the permanency
22 plan ~~need not~~ is not required to include a description of ~~those~~ the services offered or
23 provided with respect to a parent of the child to prevent the removal of the child from
24 the home or to achieve the permanency plan goal of returning the child safely to his

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1 or her home if any of the circumstances specified in s. 48.355 (2d) (b) 1., ~~2., 3., 4., or~~
2 ~~to 5. apply applies~~ to that parent.

3 **SECTION 62.** 48.38 (4) (ag) of the statutes is created to read:

4 48.38 (4) (ag) The name, address, and telephone number of the child's parent,
5 guardian, and legal custodian.

6 **SECTION 63.** 48.38 (4) (am) of the statutes is created to read:

7 48.38 (4) (am) The date on which the child was removed from his or her home
8 and the date on which the child was placed in out-of-home care.

9 **SECTION 64.** 48.38 (4) (bm) of the statutes is amended to read:

10 48.38 (4) (bm) ~~The A statement as to the~~ availability of a safe and appropriate
11 placement with a fit and willing relative of the child and, if a decision is made not
12 to place the child with an available relative, a statement as to why placement with
13 the relative is not safe or appropriate.

14 **SECTION 65.** 48.38 (4) (dg) of the statutes is created to read:

15 48.38 (4) (dg) Information about the child's education, including all of the
16 following:

17 1. The name and address of the school in which the child is or was most recently
18 enrolled.

19 2. Any special education programs in which the child is or was previously
20 enrolled.

21 3. The grade level in which the child is or was most recently enrolled and all
22 information that is available concerning the child's grade level performance.

23 4. A summary of all available education records relating to the child that are
24 relevant to any education goals included in the education services plan prepared
25 under s. 48.33 (1) (e).

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SECTION 66

1 **SECTION 66.** 48.38 (4) (dm) of the statutes is created to read:

2 48.38 (4) (dm) If as a result of the placement the child has been or will be
3 transferred from the school in which the child is or most recently was enrolled,
4 documentation that a placement that would maintain the child in that school is
5 either unavailable or inappropriate or that a placement that would result in the
6 child's transfer to another school would be in the child's best interests.

7 **SECTION 67.** 48.38 (4) (dr) of the statutes is created to read:

8 48.38 (4) (dr) Medical information relating to the child, including all of the
9 following:

10 1. The names and addresses of the child's physician, dentist, and any other
11 health care provider that is or was previously providing health care services to the
12 child.

13 2. The child's immunization record, including the name and date of each
14 immunization administered to the child.

15 3. Any known medical condition for which the child is receiving medical care
16 or treatment and any known serious medical condition for which the child has
17 previously received medical care or treatment.

18 4. The name, purpose, and dosage of any medication that is being administered
19 to the child and the name of any medication that causes the child to suffer an allergic
20 or other negative reaction.

21 **SECTION 68.** 48.38 (4) (e) of the statutes is amended to read:

22 48.38 (4) (e) The A plan for ensuring the safety and appropriateness of the
23 placement and a description of the services provided to meet the needs of the child
24 and family, including a discussion of services that have been investigated and
25 considered and are not available or likely to become available within a reasonable

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1 time to meet the needs of the child or, if available, why such services are not safe or
2 appropriate.

3 **SECTION 69.** 48.38 (4) (f) (intro.) of the statutes is amended to read:

4 48.38 (4) (f) (intro.) The A description of the services that will be provided to
5 the child, the child's family, and the child's foster parent, the child's treatment foster
6 parent or, the operator of the facility where the child is living, or the relative with
7 whom the child is living to carry out the dispositional order, including services
8 planned to accomplish all of the following:

9 **SECTION 70.** 48.38 (4) (fg) of the statutes is created to read:

10 48.38 (4) (fg) The goal of the permanency plan or, if the agency is making

11 concurrent reasonable efforts under s. 48.355 (2b), the goals of the permanency plan,

12 ~~in the order of preference specified in subds. 1. to 5.~~ If a goal of the permanency plan

13 is any goal other than return of the child to his or her home, the permanency plan

14 shall include the rationale for deciding on that goal. If a goal of the permanency plan

15 is an alternative permanent placement under subd. 5., the permanency plan shall

16 document a compelling reason why it would not be in the best interest of the child

17 to pursue a goal specified in subds. 1. to 4. The agency shall determine the goal or

18 ~~goals of a child's permanency plan in the following order of preference.~~

19 1. Return of the child to the child's home.

20 2. Placement of the child for adoption.

21 3. Placement of the child with a guardian.

22 4. Permanent placement of the child with a fit and willing relative.

23 5. Some other alternative permanent placement, including sustaining care,
24 independent living, or long-term foster care.

25 **SECTION 71.** 48.38 (4) (fm) of the statutes is amended to read:

one or more of the following goal^s; to be the goal or goal^s
of a child's permanency plan

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SECTION 71

1 48.38 (4) (fm) If the goal of the permanency plan calls for placing is to place the
2 child for adoption, with a guardian, with a fit and willing relative, or in some other
3 alternative permanent placement, the efforts made to ~~place the child for adoption,~~
4 ~~with a guardian or in some other alternative permanent placement~~ achieve that goal.

5 **SECTION 72.** 48.38 (4) (h) of the statutes is created to read:

6 48.38 (4) (h) If the child is 15 years of age or over, a description of the programs
7 and services that are or will be provided to assist the child in preparing for the
8 transition from out-of-home care to independent living. The description shall
9 include all of the following:

10 1. The anticipated age at which the child will be discharged from out-of-home
11 care.

12 2. The anticipated amount of time available in which to prepare the child for
13 the transition from out-of-home care to independent living.

14 3. The anticipated location and living situation of the child on discharge from
15 out-of-home care.

16 4. A description of the assessment processes, tools, and methods that have been
17 or will be used to determine the programs and services that are or will be provided
18 to assist the child in preparing for the transition from out-of-home care to
19 independent living.

20 5. The rationale for each program or service that is or will be provided to assist
21 the child in preparing for the transition from out-of-home care to independent
22 living, the time frames for delivering those programs or services, and the intended
23 outcome of those programs or services.

24 **SECTION 73.** 48.38 (5) (a) of the statutes is amended to read:

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1 48.38 (5) (a) The court or a panel appointed under ~~this paragraph~~ par. (ag) shall
2 review the permanency plan ~~every in the manner provided in this subsection not~~
3 ~~later than 6 months from~~ after the date on which the child was first held in physical
4 ~~custody or placed outside of~~ removed from his or her home and every 6 months after
5 a previous review under this subsection for as long as the child is placed outside the
6 home, except that for the review that is required to be conducted not later than 12
7 months after the child was first removed from his or her home and the reviews that
8 are required to be conducted every 12 months after that review the court shall hold
9 a hearing under sub. (5m) to review the permanency plan, which hearing may be
10 instead of or in addition to the review under this subsection.

11 (ag) If the court elects not to review the permanency plan, the court shall
12 appoint a panel to review the permanency plan. The panel shall consist of 3 persons
13 who are either designated by an independent agency that has been approved by the
14 chief judge of the judicial administrative district or designated by the agency that
15 prepared the permanency plan. A voting majority of persons on each panel shall be
16 persons who are not employed by the agency that prepared the permanency plan and
17 who are not responsible for providing services to the child or the parents of the child
18 whose permanency plan is the subject of the review.

19 **SECTION 74.** 48.38 (5) (b) of the statutes is amended to read:

20 48.38 (5) (b) The court or the agency shall notify the parents of the child, the
21 child, if he or she is 12 years of age or older, and the child's foster parent, the child's
22 treatment foster parent or, the operator of the facility in which the child is living, or
23 the relative with whom the child is living of the date, time, and place of the review,
24 of the issues to be determined as part of the review, and of the fact that they may have
25 an opportunity to be heard at the review by submitting written comments not less

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1 than 10 working days before the review or by participating at the review. The court
2 or agency shall notify the person representing the interests of the public, the child's
3 counsel, the child's guardian ad litem, and the child's court-appointed special
4 advocate of the date of the review, of the issues to be determined as part of the review,
5 and of the fact that they may submit written comments not less than 10 working days
6 before the review. Any written or oral statement made to the court under this
7 paragraph by a foster parent, treatment foster parent, operator of a facility in which
8 a child is living, or relative with whom a child is living shall be made under oath or
9 affirmation. The notices under this paragraph shall be provided in writing not less
10 than 30 days before the review and copies of the notices shall be filed in the child's
11 case record. the first 6 months of any period during which

12 SECTION 75. 48.38 (5) (c) 6. (intro.) of the statutes is amended to read:

13 48.38 (5) (c) 6. (intro.) If the child has been placed outside of his or her home,
14 as described in s. 48.365 (1), for 15 of the most recent 22 months, not including any
15 period during which the child was a runaway from the out-of-home placement or the
16 child was returned to his or her home for a trial home visit of 6 months or less, the
17 appropriateness of the permanency plan and the circumstances which prevent the
18 child from any of the following:

19 SECTION 76. 48.38 (5) (c) 6. am. of the statutes is renumbered 48.38 (5) (c) 6.
20 cm. and amended to read:

21 48.38 (5) (c) 6. cm. Being placed in the home of a fit and willing relative of the
22 child.

23 SECTION 77. 48.38 (5) (c) 6. cg. of the statutes is created to read:

24 48.38 (5) (c) 6. cg. Being placed with a guardian.

25 SECTION 78. 48.38 (5) (c) 6. d. of the statutes is amended to read:

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1 48.38 (5) (c) 6. d. Being placed in some other alternative permanent placement,
2 including sustaining care, independent living, or long-term foster care.

3 **SECTION 79.** 48.38 (5) (c) 7. of the statutes, as affected by 2001 Wisconsin Act
4 2, is amended to read:

5 48.38 (5) (c) 7. Whether reasonable efforts were made by the agency to make
6 it possible for the child to return safely to his or her home, except that the court or
7 panel need not determine whether those reasonable efforts were made with respect
8 to a parent of the child if any of the circumstances specified in s. 48.355 (2d) (b) 1.,
9 2., 3., 4., or 5. apply to that parent achieve the goal of the permanency plan, unless
10 return of the child to the home is the goal of the permanency plan and any of the
11 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies.

12 **SECTION 80.** 48.38 (5m) of the statutes is created to read:

13 48.38 (5m) PERMANENCY PLAN HEARING. (a) The court shall hold a hearing to
14 review the permanency plan and to make the determinations specified in sub. (5) (c)
15 no later than 12 months after the date on which the child was first removed from the
16 home and every 12 months after a previous hearing under this subsection for as long
17 as the child is placed outside the home.

18 (b) Not less than 30 days before the date of the hearing, the court shall notify
19 the child; the child's parent, guardian, and legal custodian; the child's foster parent
20 or treatment foster parent, the operator of the facility in which the child is living, or
21 the relative with whom the child is living; the child's court-appointed special
22 advocate; the agency that prepared the permanency plan; and the person
23 representing the interests of the public of the date, time, and place of the hearing.

24 (c) Any person who is provided notice of the hearing may have an opportunity
25 to be heard at the hearing by submitting written comments relevant to the

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1 determinations specified in sub. (5) (c) not less than 10 working days before the date
2 of the hearing or by participating at the hearing. Any written or oral comment made
3 to the court under this paragraph by a foster parent, treatment foster parent,
4 operator of a facility in which a child is living, or relative with whom a child is living
5 shall be made under oath or affirmation. A foster parent, treatment foster parent,
6 operator of a facility in which a child is living, or relative with whom a child is living
7 who receives notice of a hearing under par. (b) and an opportunity to be heard under
8 this paragraph does not become a party to the proceeding on which the hearing is
9 held solely on the basis of receiving that notice and opportunity to be heard.

10 (d) At least 5 days before the date of the hearing the agency that prepared the
11 permanency plan shall provide a copy of the permanency plan and any written
12 comments submitted under par. (c) to the court, to the child's parent, guardian, and
13 legal custodian, to the person representing the interests of the public, to the child's
14 counsel or guardian ad litem, and to the child's court-appointed special advocate.
15 Notwithstanding s. 48.78 (2) (a), the person representing the interests of the public,
16 the child's counsel or guardian ad litem, and the child's court-appointed special
17 advocate may have access to any other records concerning the child for the purpose
18 of participating in the review. A person permitted access to a child's records under
19 this paragraph may not disclose any information from the records to any other
20 person.

21 (e) After the hearing, the court shall make written findings of fact and
22 conclusions of law relating to the determinations under sub. (5) (c) and shall provide
23 a copy of those findings of fact and conclusions of law to the child; the child's parent,
24 guardian, and legal custodian; the child's foster parent or treatment foster parent,
25 the operator of the facility in which the child is living, or the relative with whom the

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1 child is living; the child's court-appointed special advocate; the agency that prepared
2 the permanency plan; and the person representing the interests of the public. The
3 court shall make the findings specified in sub. (5) (c) 7. on a case-by-case basis based
4 on circumstances specific to the child and shall document or reference the specific
5 information on which those findings are based in the findings of fact and conclusions
6 of law prepared under this paragraph. Findings of fact and conclusions of law that
7 merely reference sub. (5) (c) 7. without documenting or referencing that specific
8 information in the findings of fact and conclusions of law or amended findings of fact
9 and conclusions of law that retroactively correct earlier findings of fact and
10 conclusions of law that do not comply with this paragraph are not sufficient to comply
11 with this paragraph.

12 (f) If the findings of fact and conclusions of law under par. (e) conflict with the
13 child's dispositional order or provide for any additional services not specified in the
14 dispositional order, the court shall revise the dispositional order under s. 48.363 or
15 order a change in placement under s. 48.357, as appropriate. or 939.365 (1)

16 SECTION 81. 48.417 (1) (a) of the statutes is amended to read:

17 48.417 (1) (a) The child has been placed outside of his or her home, as described
18 in s. 48.365 (1) ^{keep comma} for 15 of the most recent 22 months, not including any period during
19 which the child was a runaway from the out-of-home placement or the child was
20 returned to his or her home for a trial home visit of 6 months or less. If the
21 circumstances specified in this paragraph apply, the petition shall be filed or joined
22 in by the last day of the 15th month, as described in this paragraph, for which the
23 child was placed outside of his or her home.

24 SECTION 82. 48.417 (1) (b) of the statutes is amended to read:

the first 6 months of any period during which

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1 48.417 (1) (b) A court of competent jurisdiction has found under s. 48.13 (2) or
2 under a law of any other state or a federal law that is comparable to s. 48.13 (2) that
3 the child was abandoned when he or she was under one year of age or has found that
4 the parent abandoned the child when the child was under one year of age in violation
5 of s. 948.20 or in violation of the law of any other state or federal law, if that violation
6 would be a violation of s. 948.20 if committed in this state. If the circumstances
7 specified in this paragraph apply, the petition shall be filed or joined in within 60
8 days after the date on which the court of competent jurisdiction found that the child
9 was abandoned as described in this paragraph.

10 **SECTION 83.** 48.417 (1) (c) of the statutes is amended to read:

11 48.417 (1) (c) A court of competent jurisdiction has found that the parent has
12 committed, has aided or abetted the commission of, or has solicited, conspired, or
13 attempted to commit, a violation of s. 940.01, 940.02, 940.03, or 940.05 or a violation
14 of the law of any other state or federal law, if that violation would be a violation of
15 s. 940.01, 940.02, 940.03, or 940.05 if committed in this state, and that the victim of
16 that violation is a child of the parent. If the circumstances specified in this paragraph
17 apply, the petition shall be filed or joined in within 60 days after the date on which
18 the court assigned to exercise jurisdiction under this chapter determines, based on
19 a finding that a circumstance specified in this paragraph applies, that reasonable
20 efforts to make it possible for the child to return safely to his or her home are not
21 required.

22 **SECTION 84.** 48.417 (1) (d) of the statutes is amended to read:

23 48.417 (1) (d) A court of competent jurisdiction has found that the parent has
24 committed a violation of s. 940.19 (2), (3), (4), or (5), 940.225 (1) or (2), 948.02 (1) or
25 (2), 948.025, or 948.03 (2) (a) or (3) (a) or a violation of the law of any other state or

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1 federal law, if that violation would be a violation of s. 940.19 (2), (3), (4), or (5), 940.225
2 (1) or (2), 948.02 (1) or (2), 948.025, or 948.03 (2) (a) or (3) (a) if committed in this state,
3 and that the violation resulted in great bodily harm, as defined in s. 939.22 (14), or
4 in substantial bodily harm, as defined in s. 939.22 (38), to the child or another child
5 of the parent. If the circumstances specified in this paragraph apply, the petition
6 shall be filed or joined in within 60 days after the date on which the court assigned
7 to exercise jurisdiction under this chapter determines, based on a finding that a
8 circumstance specified in this paragraph applies, that reasonable efforts to make it
9 possible for the child to return safely to his or her home are not required.

10 **SECTION 85.** 48.417 (2) (a) of the statutes is amended to read:

11 48.417 (2) (a) The child is being cared for by a fit and willing relative of the
12 child.

13 **SECTION 86.** 48.417 (2) (b) of the statutes is amended to read:

14 48.417 (2) (b) The child's permanency plan indicates and provides
15 documentation that termination of parental rights to the child is not in the best
16 interests of the child.

17 **SECTION 87.** 48.417 (2) (d) of the statutes is created to read:

18 48.417 (2) (d) Grounds for an involuntary termination of parental rights under
19 s. 48.415 do not exist.

20 **SECTION 88.** 48.42 (2g) (am) of the statutes is amended to read:

21 48.42 (2g) (am) The court shall give a foster parent, treatment foster parent,
22 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under
23 par. (a) an opportunity to be heard at the hearing by permitting the foster parent,
24 treatment foster parent, or other physical custodian to make a written or oral
25 statement during the hearing, or to submit a written statement prior to the hearing,

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1 relevant to the issues to be determined at the hearing. Any written or oral statement
2 made under this paragraph shall be made upon oath or affirmation. A foster parent,
3 treatment foster parent, or other physical custodian described in s. 48.62 (2) who
4 receives a notice of a hearing under par. (a) and an opportunity to be heard under this
5 paragraph does not become a party to the proceeding on which the hearing is held
6 solely on the basis of receiving that notice and opportunity to be heard.

7 **SECTION 89.** 48.427 (1m) of the statutes is amended to read:

8 48.427 (1m) In addition to any evidence presented under sub. (1), the court
9 shall give the foster parent, treatment foster parent, or other physical custodian
10 described in s. 48.62 (2) of the child an opportunity to be heard at the dispositional
11 hearing by permitting the foster parent, treatment foster parent, or other physical
12 custodian to make a written or oral statement during the dispositional hearing, or
13 to submit a written statement prior to disposition, relevant to the issue of disposition.
14 Any written or oral statement made under this subsection shall be made upon oath
15 or affirmation. A foster parent, treatment foster parent, or other physical custodian
16 described in s. 48.62 (2) who receives notice of a hearing under s. 48.42 (2g) (a) and
17 an opportunity to be heard under this subsection does not become a party to the
18 proceeding on which the hearing is held solely on the basis of receiving that notice
19 and opportunity to be heard.

20 **SECTION 90.** 48.63 (1) of the statutes is amended to read:

21 48.63 (1) Acting pursuant to under court order or voluntary agreement, the
22 child's parent or guardian or the department of health and family services, the
23 department of corrections, a county department, or a child welfare agency licensed
24 to place children in foster homes or, treatment foster homes, or group homes may
25 place a child or negotiate or act as intermediary for the placement of a child in a foster

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1 home, treatment foster home, or group home. Voluntary agreements under this
2 subsection may not be used for placements in facilities other than foster, treatment
3 foster, or group homes and may not be extended. A foster home or treatment foster
4 home placement under a voluntary agreement may not exceed 6 months 180 days
5 from the date on which the child was removed from the home under the voluntary
6 agreement. A group home placement under a voluntary agreement may not exceed
7 15 days from the date on which the child was removed from the home under the
8 voluntary agreement. These time limitations do not apply to placements made under
9 s. 48.345, 938.183, 938.34, or 938.345. Voluntary agreements may be made only
10 under this subsection and shall be in writing and shall specifically state that the
11 agreement may be terminated at any time by the parent or guardian or by the child
12 if the child's consent to the agreement is required. The child's consent to the
13 agreement is required whenever the child is 12 years of age or older.

14 **SECTION 91.** 48.63 (4) of the statutes is amended to read:

15 48.63 (4) A permanency plan under s. 48:38 is required for each child placed
16 in a foster home or treatment foster home under sub. (1). If the child is living in a
17 foster home or treatment foster home under a voluntary agreement, the agency that
18 negotiated or acted as intermediary for the placement shall prepare the permanency
19 plan within 60 days after the placement date on which the child was removed from
20 his or her home under the voluntary agreement. A copy of each plan shall be provided
21 to the child if he or she is 12 years of age or over and to the child's parent or guardian.
22 If the agency ~~which~~ that arranged the voluntary placement intends to seek a court
23 order to place the child outside of his or her home at the expiration of the voluntary
24 placement, the agency shall prepare a revised permanency plan and file that revised
25 plan with the court prior to the date of the hearing on the proposed placement.

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1 **SECTION 92.** 48.685 (5) (bm) 4. of the statutes is amended to read:

2 48.685 (5) (bm) 4. A violation of s. 125.075 (1), 125.085 (3) (a) 2., 125.105 (2) (b),
3 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (3), (4), (5), or (6), 940.20, 940.203, 940.205
4 or, 940.207, or 940.25, a violation of s. 346.63 (1), (2), (5), or (6) that is a felony under
5 s. 346.65 (2) (e) or (f), (2j) (d), or (3m), or an offense under ch. 961 that is a felony, if
6 committed not more than 5 years before the date of the investigation under sub. (2)
7 (am).

8 **SECTION 93.** 48.78 (2) (a) of the statutes is amended to read:

9 48.78 (2) (a) No agency may make available for inspection or disclose the
10 contents of any record kept or information received about an individual in its care
11 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or (5m) (d),
12 48.432, 48.433, 48.93, 48.981 (7), 938.51, or 938.78 or by order of the court.

13 **SECTION 94.** 48.977 (2) (f) of the statutes, as affected by 2001 Wisconsin Act 2,
14 is amended to read:

15 48.977 (2) (f) That the agency primarily responsible for providing services to
16 the child under a court order has made reasonable efforts to make it possible for the
17 child to return to his or her home, while assuring that the child's health and safety
18 are the paramount concerns, but that reunification of the child with the child's
19 parent or parents is unlikely or contrary to the best interests of the child and that
20 further reunification efforts are unlikely to be made or are contrary to the best
21 interests of the child, except that the court ~~need not~~ is not required to find that the
22 agency has made those reasonable efforts with respect to a parent of the child if any
23 of the circumstances specified in s. 48.355 (2d) (b) 1., 2., 3., 4., or 5. apply to 5. applies
24 to that parent. The court shall make the findings specified in this paragraph on a
25 case-by-case basis based on circumstances specific to the child and shall document

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1 or reference the specific information on which those findings are based in the
2 guardianship order. A guardianship order that merely references this paragraph
3 without documenting or referencing that specific information in the order or an
4 amended guardianship order that retroactively corrects an earlier guardianship
5 order that does not comply with this paragraph is not sufficient to comply with this
6 paragraph.

7 **SECTION 95.** 938.21 (1) (a) of the statutes is amended to read:

8 938.21 (1) (a) If a juvenile who has been taken into custody is not released
9 under s. 938.20, a hearing to determine whether the juvenile shall continue to be held
10 in custody under the criteria of ss. 938.205 to 938.209 (1) shall be conducted by the
11 judge or juvenile court commissioner within 24 hours after the end of the day that
12 the decision to hold the juvenile was made, excluding Saturdays, Sundays, and legal
13 holidays. By the time of the hearing a petition under s. 938.25 shall be filed, except
14 that no petition need be filed where a juvenile is taken into custody under s. 938.19
15 (1) (b) or (d) 2., 6. or 7. or where the juvenile is a runaway from another state, in which
16 case a written statement of the reasons for holding a juvenile in custody shall be
17 substituted if the petition is not filed. If no hearing has been held within 24 hours
18 or if no petition or statement has been filed at the time of the hearing, the juvenile
19 shall be released except as provided in par. (b). A parent not present at the hearing
20 shall be granted a rehearing upon request ~~unless the parent has waived his or her~~
21 ~~right to participate in the hearing, in which case the parent shall be granted a~~
22 ~~rehearing upon request for good cause shown.~~

23 **SECTION 96.** 938.21 (2) (am) of the statutes is amended to read:

24 938.21 (2) (am) A juvenile held in a nonsecure place of custody may waive in
25 writing his or her right to participate in the hearing under this section. After any

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1 waiver, a hearing rehearing shall be granted upon the request of the juvenile or any
2 other interested party for good cause shown. Any juvenile transferred to a secure
3 detention facility shall thereafter have a hearing rehearing under this section.

4 **SECTION 97.** 938.21 (2) (d) of the statutes is amended to read:

5 ~~938.21 (2) (d) If the juvenile is not represented by counsel at the hearing and
6 the juvenile is continued in custody as a result of the hearing, the juvenile may
7 request through counsel subsequently appointed or retained or through a guardian
8 ad litem that the order to hold in custody be reheard. If the request is made, a
9 rehearing shall take place as soon as possible unless the request is made by a juvenile
10 who has waived his or her right to participate in the hearing, in which case a
11 rehearing shall take place only upon a showing of good cause. Whether or not counsel
12 was present, any order to hold the juvenile in custody shall be subject to rehearing
13 for good cause.~~

14 **SECTION 98.** 938.21 (3) (am) of the statutes is amended to read:

15 938.21 (3) (am) The parent, guardian, or legal custodian may waive his or her
16 right to participate in the hearing under this section. ~~Agreement in writing of the~~
17 ~~juvenile is required if he or she is over 12.~~ After any waiver, a hearing rehearing shall
18 be granted at the request of any the parent, guardian, legal custodian, or any other
19 interested party for good cause shown.

20 **SECTION 99.** 938.21 (3) (e) of the statutes is amended to read:

21 ~~938.21 (3) (e) If the parent, guardian, or legal custodian or the juvenile is not
22 represented by counsel at the hearing and the juvenile is continued in custody as a
23 result of the hearing, the parent, guardian, legal custodian, or juvenile may request
24 through counsel subsequently appointed or retained or through a guardian ad litem
25 that the order to hold the juvenile in custody be reheard. If the request is made, a~~

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a finding as to whether the person who took the juvenile into custody and the intake worker have made reasonable efforts,

rehearing shall take place as soon as possible unless the request is made by a parent, guardian, or legal custodian who has waived his or her right to participate in the hearing, in which case a rehearing shall take place only upon a showing of good cause. Any order to hold the juvenile in custody shall be subject to rehearing for good cause, whether or not counsel was present.

SECTION 100. 938.21 (5) (b) 1. of the statutes, as affected by 2001 Wisconsin Act 16, is repealed and recreated to read:

938.21 (5) (b) 1. A finding that continued placement of the juvenile in his or her home would be contrary to the welfare of the juvenile and, unless the judge or juvenile court commissioner finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, a finding as to whether the person who took the juvenile into custody and the intake worker have made reasonable efforts to prevent the removal of the juvenile from the home, while assuring that the juvenile's health and safety are the paramount concerns, and to make it possible for the juvenile to return safely home or, if for good cause shown sufficient information is not available for the judge or juvenile court commissioner to make these findings, an order for the county department or agency primarily responsible for providing services to the juvenile under the custody order to file with the court sufficient information for the judge or juvenile court commissioner to make these findings by no later than 5 days after the date of the order.

SECTION 101. 938.21 (5) (b) 3. of the statutes is created to read:

938.21 (5) (b) 3. If the judge or juvenile court commissioner finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, a determination that the county department or agency primarily responsible for providing services under the custody order is not required to make reasonable

a finding as to whether those reasonable efforts were made to prevent the removal of the juvenile from the home

a finding as to whether those reasonable efforts were made to prevent the removal of the juvenile from the home, a finding as to whether those reasonable efforts were made to make it possible for the juvenile to return safely home and